

110TH CONGRESS
1ST SESSION

S. 1232

To direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2007

Mr. DODD introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Food Allergy and Ana-
5 phylaxis Management Act of 2007”.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

3 (1) Food allergy is an increasing food safety
4 and public health concern in the United States, es-
5 pecially among students.

6 (2) Peanut allergy doubled among children from
7 1997 to 2002.

8 (3) In a 2004 survey of 400 elementary school
9 nurses, 37 percent reported having at least 10 stu-
10 dents with severe food allergies and 62 percent re-
11 ported having at least 5.

12 (4) Forty-four percent of the elementary school
13 nurses surveyed reported that the number of stu-
14 dents in their school with food allergy had increased
15 over the past 5 years, while only 2 percent reported
16 a decrease.

17 (5) In a 2001 study of 32 fatal food-allergy in-
18 duced anaphylactic reactions (the largest study of its
19 kind to date), more than half (53 percent) of the in-
20 dividuals were aged 18 or younger.

21 (6) Eight foods account for 90 percent of all
22 food-allergic reactions: milk, eggs, fish, shellfish, tree
23 nuts, peanuts, wheat, and soy.

24 (7) Currently, there is no cure for food aller-
25 gies; strict avoidance of the offending food is the
26 only way to prevent a reaction.

1 (8) Anaphylaxis is a systemic allergic reaction
2 that can kill within minutes.

3 (9) Food-allergic reactions are the leading cause
4 of anaphylaxis outside the hospital setting, account-
5 ing for an estimated 30,000 emergency room visits,
6 2,000 hospitalizations, and 150 to 200 deaths each
7 year in the United States.

8 (10) Fatalities from anaphylaxis are associated
9 with a delay in the administration of epinephrine
10 (adrenaline), or when epinephrine was not adminis-
11 tered at all. In a study of 13 food allergy-induced
12 anaphylactic reactions in school-age children (6 fatal
13 and 7 near fatal), only 2 of the children who died
14 received epinephrine within 1 hour of ingesting the
15 allergen, and all but 1 of the children who survived
16 received epinephrine within 30 minutes.

17 (11) The importance of managing life-threat-
18 ening food allergies in the school setting has been
19 recognized by the American Medical Association, the
20 American Academy of Pediatrics, the American
21 Academy of Allergy, Asthma and Immunology, the
22 American College of Allergy, Asthma and Immu-
23 nology, and the National Association of School
24 Nurses.

1 (12) There are no Federal guidelines con-
 2 cerning the management of life-threatening food al-
 3 lergies in the school setting.

4 (13) Three-quarters of the elementary school
 5 nurses surveyed reported developing their own train-
 6 ing guidelines.

7 (14) Relatively few schools actually employ a
 8 full-time school nurse. Many are forced to cover
 9 more than 1 school, and are often in charge of hun-
 10 dreds if not thousands of students.

11 (15) Parents of students with severe food aller-
 12 gies often face entirely different food allergy man-
 13 agement approaches when their students change
 14 schools or school districts.

15 (16) In a study of food allergy reactions in
 16 schools and day-care settings, delays in treatment
 17 were attributed to a failure to follow emergency
 18 plans, calling parents instead of administering emer-
 19 gency medications, and an inability to administer ep-
 20 inephrine.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) ESEA DEFINITIONS.—The terms “local
 24 educational agency”, “secondary school”, and “ele-
 25 mentary school” have the meanings given the terms

1 in section 9101 of the Elementary and Secondary
2 Education Act of 1965 (20 U.S.C. 7801).

3 (2) SCHOOL.—The term “school” includes pub-
4 lic—

5 (A) kindergartens;

6 (B) elementary schools; and

7 (C) secondary schools.

8 (3) SECRETARY.—The term “Secretary” means
9 the Secretary of Health and Human Services, in
10 consultation with the Secretary of Education.

11 **SEC. 4. ESTABLISHMENT OF VOLUNTARY FOOD ALLERGY**
12 **AND ANAPHYLAXIS MANAGEMENT POLICY.**

13 (a) ESTABLISHMENT.—Not later than 1 year after
14 the date of enactment of this Act, the Secretary shall—

15 (1) develop a policy to be used on a voluntary
16 basis to manage the risk of food allergy and anaphy-
17 laxis in schools; and

18 (2) make such policy available to local edu-
19 cational agencies and other interested individuals
20 and entities to be implemented on a voluntary basis
21 only.

22 (b) CONTENTS.—The voluntary policy developed by
23 the Secretary under subsection (a) shall contain guidelines
24 that address each of the following:

(1) Parental obligation to provide the school,
prior to the start of every school year, with—

(A) documentation from the student’s physician or nurse—

(i) supporting a diagnosis of food allergy and the risk of anaphylaxis;

(ii) identifying any food to which the student is allergic;

(iii) describing, if appropriate, any prior history of anaphylaxis;

(iv) listing any medication prescribed for the student for the treatment of anaphylaxis;

(v) detailing emergency treatment procedures in the event of a reaction;

(vi) listing the signs and symptoms of a reaction; and

(vii) assessing the student’s readiness for self-administration of prescription medication; and

(B) a list of substitute meals that may be offered to the student by school food service personnel.

(2) The creation and maintenance of an individual health care plan tailored to the needs of each

1 student with a documented risk for anaphylaxis, in-
2 cluding any procedures for the self-administration of
3 medication by such students in instances where—

4 (A) the students are capable of self-admin-
5 istering medication; and

6 (B) such administration is not prohibited
7 by State law.

8 (3) Communication strategies between indi-
9 vidual schools and local providers of emergency med-
10 ical services, including appropriate instructions for
11 emergency medical response.

12 (4) Strategies to reduce the risk of exposure to
13 anaphylactic causative agents in classrooms and
14 common school areas such as cafeterias.

15 (5) The dissemination of information on life-
16 threatening food allergies to school staff, parents,
17 and students, if appropriate by law.

18 (6) Food allergy management training of school
19 personnel who regularly come into contact with stu-
20 dents with life-threatening food allergies.

21 (7) The authorization and training of school
22 personnel to administer epinephrine when the school
23 nurse is not immediately available.

1 (8) The timely accessibility of epinephrine by
 2 school personnel when the nurse is not immediately
 3 available.

4 (9) Extracurricular programs such as non-aca-
 5 demic outings and field trips, before- and after-
 6 school programs, and school-sponsored programs
 7 held on weekends that are addressed in the indi-
 8 vidual health care plan.

9 (10) The collection and publication of data for
 10 each administration of epinephrine to a student at
 11 risk for anaphylaxis.

12 (c) RELATION TO STATE LAW.—Nothing in this Act
 13 or the policy developed by the Secretary under subsection
 14 (a) shall be construed to preempt State law, including any
 15 State law regarding whether students at risk for anaphy-
 16 laxis may self-administer medication.

17 **SEC. 5. SCHOOL-BASED FOOD ALLERGY MANAGEMENT**
 18 **GRANTS.**

19 (a) IN GENERAL.—The Secretary may award grants
 20 of not more than \$50,000 to local educational agencies
 21 to assist such agencies with implementing voluntary food
 22 allergy management guidelines described in section 4.

23 (b) APPLICATION.—

24 (1) IN GENERAL.—To be eligible to receive a
 25 grant under this section, a local educational agency

1 shall submit an application to the Secretary at such
2 time, in such manner, and including such informa-
3 tion as the Secretary may reasonably require.

4 (2) CONTENTS.—Each application submitted
5 under paragraph (1) shall include—

6 (A) a certification that the food allergy
7 management guidelines described in section 4
8 have been adopted by the local educational
9 agency;

10 (B) a description of the activities to be
11 funded by the grant in carrying out the food al-
12 lergy management guidelines, including—

13 (i) how the guidelines will be carried
14 out at individual schools served by the
15 local educational agency;

16 (ii) how the local educational agency
17 will inform parents and students of the
18 food allergy management guidelines in
19 place;

20 (iii) how school nurses, teachers, ad-
21 ministrators, and other school-based staff
22 will be made aware of, and given training
23 on, when applicable, the food allergy man-
24 agement guidelines in place; and

1 (iv) any other activities that the Sec-
2 retary determines appropriate;

3 (C) an itemization of how grant funds re-
4 ceived under this section will be expended;

5 (D) a description of how adoption of the
6 guidelines and implementation of grant activi-
7 ties will be monitored; and

8 (E) an agreement by the local educational
9 agency to report information required by the
10 Secretary to conduct evaluations under this sec-
11 tion.

12 (c) USE OF FUNDS.—Each local educational agency
13 that receives a grant under this section may use the grant
14 funds for the following:

15 (1) Creation of systems and databases related
16 to creation, storage, and maintenance of student
17 records.

18 (2) Purchase of equipment or services, or both,
19 related to the creation, storage, and maintenance of
20 student records.

21 (3) In partnership with local health depart-
22 ments, school nurse, teacher, and personnel training
23 for food allergy management.

1 (4) Purchase and storage of limited medical
2 supplies, including epinephrine and disposable wet
3 wipes.

4 (5) Programs that educate students as to the
5 presence of, and policies and procedures in place re-
6 lated to, food allergies and anaphylactic shock.

7 (6) Outreach to parents.

8 (7) Any other activities consistent with the
9 guidelines described in section 4.

10 (d) DURATION OF AWARDS.—The Secretary may
11 award grants under this section for a period of not more
12 than 2 years. In the event the Secretary conducts a pro-
13 gram evaluation under this section, funding in the second
14 year of the grant, where applicable, shall be contingent
15 on a successful program evaluation by the Secretary after
16 the first year.

17 (e) MAXIMUM AMOUNT OF ANNUAL AWARDS.—A
18 grant awarded under this section may not be made in an
19 amount that is more than \$50,000 annually.

20 (f) PRIORITY.—In awarding grants under this sec-
21 tion, the Secretary shall give priority to local educational
22 agencies that receive Federal funding under title I of the
23 Elementary and Secondary Education Act of 1965 (20
24 U.S.C. 6301 et seq.).

1 (g) ADMINISTRATIVE FUNDS.—A local educational
2 agency that receives a grant under this section may use
3 not more than 2 percent of the grant amount for adminis-
4 trative costs related to carrying out this section.

5 (h) PROGRESS AND EVALUATIONS.—At the comple-
6 tion of the grant period referred to in subsection (d), a
7 local educational agency shall provide the Secretary with
8 information on the status of implementation of the food
9 allergy management guidelines described in section 4.

10 (i) SUPPLEMENT, NOT SUPPLANT.—Grant funds re-
11 ceived under this section shall be used to supplement, and
12 not supplant, non-Federal funds and any other Federal
13 funds available to carry out the activities described in this
14 section.

15 (j) AUTHORIZATION OF APPROPRIATIONS.—There is
16 authorized to be appropriated to carry out this section
17 \$30,000,000 for fiscal year 2008 and such sums as may
18 be necessary for each of the 4 succeeding fiscal years.

19 **SEC. 6. VOLUNTARY NATURE OF POLICY AND GUIDELINES.**

20 (a) IN GENERAL.—The policy developed by the Sec-
21 retary under section 4(a) and the food allergy manage-
22 ment guidelines contained in such policy are voluntary.
23 Nothing in this Act or the policy developed by the Sec-
24 retary under section 4(a) shall be construed to require a

1 local educational agency or school to implement such pol-
2 icy or guidelines.

3 (b) EXCEPTION.—Notwithstanding subsection (a),
4 the Secretary may enforce an agreement by a local edu-
5 cational agency to implement food allergy management
6 guidelines as a condition on the receipt of a grant under
7 section 5.

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